

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

NORMAN DORISE,

Case No. 09-10042

Plaintiff,

Marianne O. Battani

vs.

United States District Judge

ELLA BULLEA CUMMINGS, et al.,

Michael Hluchaniuk

United States Magistrate Judge

Defendants.

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**ORDER DENYING PLAINTIFF'S MOTION FOR  
APPOINTMENT OF COUNSEL WITHOUT PREJUDICE (Dkt. 26)**

Plaintiff has filed a document with the Court entitled “motion for injunctive relief via appointment special master or an attorney for defendants disposition proceedings at prison facility for his due process procedural protection.” (Dkt. 26). The Court interprets plaintiff’s motion as a motion for the appointment of counsel. Plaintiff, an inmate currently at the Chippewa Correctional Facility, brings this action under 42 U.S.C. § 1983, claiming violations of his rights under the United States Constitution. (Dkt. 1). Plaintiff alleges that certain City of Detroit police officers used excessive force on him and that other defendants failed to properly train and supervise those officers. *Id.* On May 8, 2009, this case was referred to the undersigned for all pretrial purposes by District Judge Marianne O. Battani.

(Dkt. 11). In support of his request for counsel, plaintiff states that he needs a lawyer to protect his constitutional due process rights during the taking of his deposition. (Dkt. 26).

Under 28 U.S.C. § 1915(e)(1), a federal court may request an attorney to represent an indigent plaintiff. *Reneer v. Sewell*, 975 F.2d 261 (6th Cir. 1992). Except in rare circumstances, it is the practice of this Court to consider the appointment of counsel in prisoner civil rights cases only where exceptional circumstances exist, or in certain cases only after a motion to dismiss or for summary judgment has been decided. In order to make the determination whether there are exceptional circumstances to appoint counsel, the Court considers the type of case involved, plaintiff's ability to represent himself, as well as the complexity of the case, and also whether the claims being presented are frivolous or have a small likelihood of success. *Reneer*, 975 F.2d at 261; *see also Mars v. Hanberry*, 752 F.2d 254, 256 (6th Cir. 1995).

Plaintiff offers no basis for the Court to reconsider its earlier denial of plaintiff's request for counsel. (Dkt. 22, 24). It appears that, from reading the complaint, plaintiff has an adequate understanding of the issues and matters involved in this case, and is able to articulate the claims and arguments in a reasonable fashion. It also appears that the issues raised in his complaint are

straightforward and understandable and not of an unduly complex nature. Thus, the Court finds no exceptional circumstances presented here. Further, no dispositive motions have been resolved in favor of plaintiff. Should dispositive motion(s) be decided in plaintiff's favor, plaintiff may re-file the motion for the appointment of counsel.

Based on the foregoing, plaintiff's motion for the appointment of counsel is **DENIED WITHOUT PREJUDICE.**

**IT IS SO ORDERED.**

The parties to this action may object to and seek review of this Order, but are required to file any objections within 10 days of service as provided for in 28 U.S.C. § 636(b)(1) and Local Rule 72.1(d)(2). A party may not assign as error any defect in this Order to which timely objection was not made. Fed.R.Civ.P. 72(a). Any objections are required to specify the part of the Order to which the party objects and state the basis of the objection. Pursuant to Local Rule 72.1(d)(2), objections must be served on this Magistrate Judge.

Date: October 23, 2009

s/Michael Hluchaniuk  
Michael Hluchaniuk  
United States Magistrate Judge

**CERTIFICATE OF SERVICE**

I certify that on October 23, 2009 I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send electronic notification to the following: John A. Schapka and Nellie J.L. Lee, and I certify that I have mailed by United States Postal Service the paper to the following non-ECF participant(s): Norman Dorise, # 653633, KINROSS CORRECTIONAL FACILITY, 16770 S. Watertower Drive, Kincheloe, MI 49788.

s/James P. Peltier  
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